

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant [REDACTED]
acting on behalf of herself and [REDACTED]

in re Accounts of Otto Fuchs and Maria Fuchs

Claim Number: 210775/AH

Award Amount: 7,117,236.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Otto Fuchs. The Award is to the account of Otto Fuchs (“Account Owner Otto Fuchs”) at the Zurich branch of the [REDACTED] (“Bank I”) and to the accounts of Maria Fuchs (“Account Owner Maria Fuchs”) at the Zurich, Lausanne, and Basel branches of the [REDACTED] (“Bank II”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

Account Owner Otto Fuchs

The Claimant submitted a Claim Form identifying Account Owner Otto Fuchs as her father and the maternal grandfather of [REDACTED], the Claimant’s niece, whom she is representing. The Claimant stated that her father was born on 6 June 1881 in Prague, Czechoslovakia, and that he was married to [REDACTED] in Brünn (or Brno), Czechoslovakia in 1920. The Claimant stated that her parents had three children, all born in Brünn: [REDACTED], who was born in 1923, [REDACTED] (the mother of [REDACTED]), who was born in 1924, and the Claimant, who was born on 6 November 1925. The Claimant submitted documents indicating that her father, who was Jewish, was a patent attorney who held the title of Doctor and had connections with Swiss colleagues before the Nazis arrested him and deported him to a concentration camp. The Claimant identified her father's business addresses in Brünn-Komarov before and after the Second World War and identified his home address as 4 Cernovicka Street. She stated that her father died in Brünn in 1957. The Claimant's sister [REDACTED] died in 1943 in Brno, and her sister [REDACTED] died there in 1998. The Claimant submitted various official documents including her own birth certificate, the birth certificates of [REDACTED] and Otto Fuchs, and an affidavit certified on 23 February 1983, stating that Dr. Otto Fuchs died without a will, and that

his sole heirs are his two daughters, the Claimant and [REDACTED], in equal shares. The Claimant previously submitted two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Otto Fuchs.

Account Owner Maria Fuchs

In a telephone conversation with the CRT on 18 April 2002, the Claimant stated that her father had one sister, Maria Fuchs, who was Jewish and lived in Berlin, where she was a concert singer. The Claimant stated that Maria, who was unmarried and had no children, fled from Berlin to Brünn, but the Nazis captured her there and deported her to a concentration camp in Poland, where she was killed. The Claimant also made specific mention of gold deposits made by the family in Swiss banks.

Information Available in the Bank Records

Account Owner Otto Fuchs

Bank I

The bank records for the account of Otto Fuchs held at Bank I consist of an account registration card. According to this record, the Account Owner was Ing. Dr. Otto Fuchs from Brünn and Kumrowitz in Czechoslovakia. The bank records indicate that the Account Owner held a demand deposit account. These records do not indicate when the account was opened, but they show that it was closed on 30 March 1941. The bank record does not show to whom the proceeds of the account were paid, nor does this record indicate the value of this account. There is no evidence in the bank records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Account Owner Maria Fuchs

Bank II

Account I at the Zurich Branch

For the first account (“Account I”) of Maria Fuchs held at the Zurich branch of Bank II, the bank records consist of a protocol of the contents of a safe deposit box from the Swiss Federal Archive, dated 21 March 1946, and printouts from the Bank’s database. According to these records, the Account Owner was Miss Maria Fuchs (also known as Marie Fuchs), who at some point resided in Germany. The records show that the Account Owner opened the safe deposit box and made a deposit in February 1938. The bank documents show that the account was frozen under the 1945 Swiss Freeze of German assets at an unknown date and was released from the freeze on 18 October 1952. The record further shows that the safe was forced open on 21 March 1946, and was found to contain 1,000.00 Swiss Francs in an envelope marked “*for Dr. Ing. Otto Fuchs, Brünn 17, Cernowitzerstr. 4,*” as well as two separate sealed bags containing gold coins valued at 20,000.00 Swiss Francs and 5,000.00 Swiss Francs. The auditors who

carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution (the “Auditors”) pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP”), did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account is 18 October 1952.

Account II at the Zurich Branch

With respect to the second account (“Account II”), held at the Zurich branch of Bank II, the records consist of an extract from a database of assets that were frozen under the 1945 Swiss Freeze of German Assets. According to this document, the Account Owner was Miss Maria Fuchs, (also known as Marie Fuchs), who resided in Germany at some point between 1933 and 1945. This record shows that the Account Owner held a safe deposit box, but does not indicate the safe deposit box’s opening date. The bank document shows that the account was frozen under the 1945 Swiss Freeze of German assets on 23 March 1946, and was released from the freeze on an unknown date. The record shows that on 16 February 1945, the balance of the account was unknown. The Auditors did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account was 23 March 1946.

Account III at the Basel Branch

For the third account (“Account III”) held at the Basel branch of Bank II, the records consist of a printout from a database of frozen German assets. According to this document, the Account Owner was Miss Marie Fuchs, who was domiciled in Germany at some point between 1933 and 1945. The record includes a former address of the account owner as Darstetten Lochmatt in Bern, Switzerland. This record does not show the account opening date, nor the type of account held. The record shows that on 16 February 1945, the balance of the account was 15,973.00 Swiss Francs. The bank document shows that the account was frozen under the 1945 Swiss Freeze of German assets on 26 September 1945, and was released from the freeze on an unknown date, prior to 1952. The Auditors did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account was 16 February 1945.

Account IV at the Lausanne Branch

For the fourth account (“Account IV”) held at the Lausanne branch of Bank II, the records consist of a printout from a database of frozen German assets. According to this document, the Account Owner was Miss Maria Fuchs, who resided in Germany at some point between 1933 and 1945. There is also an indication in the record of another address of the Account Owner in Brünn. This record does not show the account opening date, nor the type of account held. The record shows that on 16 February 1945, the balance of the account was 10,193.00 Swiss Francs. According to the bank records, the account was frozen under the 1945 Swiss Freeze of German assets on 14 August 1945, and was released from the freeze on 11 February 1949. The Auditors did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account was 14 August 1945.

Account V at the Lausanne Branch

For the fifth account (“Account V”) held at the Lausanne branch of Bank II, the records consist of a printout from a database of frozen German assets. According to this document, the Account Owner was Miss Maria Fuchs, who resided in Germany at some point between 1933 and 1945. There is also an indication in the record of another address of the account owner in Brünn (Brno). This record does not show the account opening date, nor the type of account held. The record shows that on 16 February 1945, the balance of the account was 11,281.00 Swiss Francs. The bank document shows that the account was frozen under the 1945 Swiss Freeze of German assets on 14 August 1945, and was released from the freeze on 11 February 1949. The Auditors did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account was 14 August 1945.

Account VI at the Lausanne Branch

For the sixth account (“Account VI”) held at the Lausanne branch of Bank II, the records consist of a printout from a database of frozen German assets. According to this document, the Account Owner was Miss Maria Fuchs, who resided in Germany at some point between 1933 and 1945. There is also an indication in the record of another address of the account owner in Brünn (Brno). This record does not show the account opening date, nor the type of account held. The record shows that on 16 February 1945, the balance of the account was 486,941.00 Swiss Francs. The bank document shows that the account was frozen under the 1945 Swiss Freeze of German assets on 14 August 1945, and was released from the freeze on 11 February 1949. The Auditors did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. The last known date of existence of the account was 14 August 1945.

Account VII

For the seventh account (“Account VII”) held at Bank II, the records consist of a printout from a database of frozen German assets. According to this document, the Account Owner was Miss Maria Fuchs, who was domiciled in Germany at some stage during the period 1933 to 1945 and had an alternative or additional address. This record does not show the account opening date. The record indicates that the Account Owner held a custody account and that on 20 June 1946, the balance of the account was 39,125.00 Swiss Francs. The bank document shows that the account was frozen under the 1945 Swiss Freeze of German assets on 13 May 1946, and was released from the freeze presumably on 12 January 1951. The account was reported by the Zurich branch of the [REDACTED], and on 13 January 1951, the Bank inserted a comment on the record stating that the Account Owner died in 1942 and that either the Bank could not locate the Account Owner’s heirs or that the Bank was restricted from contacting the Account Owner’s heirs. It is not clear whether the account was closed by the Bank at some stage or remained open and dormant.

The CRT notes that there is no evidence in any of the bank records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

Account Owner Otto Fuchs

The Claimant has plausibly identified Account Owner Otto Fuchs. Her father's name matches the published name of Account Owner Otto Fuchs. In addition, the Claimant's information about her father's cities of residence matches unpublished information about the Account Owner contained in the bank documents. The Claimant also submitted official documents pertaining to Dr. Otto Fuchs, and indicated that he had connections to Switzerland. Finally, the Claimant identified her father's two professional titles, one of which was not published.

The Claimant filed two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Otto Fuchs, in which she also indicated the existence of several kinds of deposits in Swiss banks. The CRT further notes that the Claimant submitted documents dated back to 1933, which indicate the wealth of her father and which were issued prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her father owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Account Owner Maria Fuchs

The Claimant has plausibly identified Account Owner Maria Fuchs. The Claimant's aunt's name matches the published name of Account Owner Maria Fuchs (also known as Marie Fuchs). The information the Claimant submitted about her aunt's marital status matches information about the Account Owner contained in the bank records. Additionally, the information provided by the Claimant about her aunt's temporary domicile in Germany matches the unpublished information contained in the bank record. Concerning Account I, the name of Maria Fuchs' brother, his professional titles, and his exact street address as provided by the Claimant, match the respective unpublished information contained in the bank records. With respect to Accounts IV, V, and VI, the information provided by the Claimant about her aunt's fleeing Berlin to Brünn, where her brother lived, matches the unpublished information contained in the bank records about the Account Owner's additional domicile. Regarding Account VII, the information provided by the Claimant about her aunt's death during the Second World War matches the unpublished information contained in the bank records showing that Bank II knew the Account Owner died in 1942. In support of her claim, the Claimant submitted various official and personal documents including a notary statement, birth certificate, and letters.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and that Otto Fuchs was sent to a Nazi concentration camp, as documented in official records she submitted, and that Maria Fuchs was deported to Poland, where she was killed in a concentration camp.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that Account Owner Otto Fuchs was her father and that Account Owner Maria Fuchs was her paternal aunt. In support of her claim, the Claimant submitted various documents including a family tree, her and her father's birth certificates, the birth certificate of [REDACTED], and her mother's death certificate. In addition, the Claimant provided detailed information about her father's and aunt's addresses, their occupations, and their circumstances before and during the Second World War. The Claimant provided a confirmation by an inheritance public notary, issued on 23 February 1983, stating that Dr. Otto Fuchs died without a will, and his heirs are his two remaining daughters, the Claimant and [REDACTED], in equal shares. There is no information to indicate that either Account Owner Otto Fuchs or Account Owner Maria Fuchs has other surviving heirs.

The Issue of Who Received the Proceeds

Based on its precedent and the Rules Governing the Claims Resolution Process (the "Rules"), the CRT applies presumptions to determine whether Account Owners or their heirs received the proceeds of their accounts. These presumptions are contained in Appendix A.¹

With regard to the account of Otto Fuchs, the CRT notes that the account was closed in March 1941 and the Account Owner was a Czech national. Given the persecution of Jews in Czechoslovakia and the confiscation of Jewish assets during the War, the fact that the Nazis invaded Czechoslovakia in March 1939 and Switzerland imposed visa requirements on 20 January 1939, the CRT concludes that Presumptions (a) and (j) apply in this case, and therefore, it is plausible that Account Owner Otto Fuchs and his heirs did not receive the proceeds of this account.

With regard to the accounts of Maria Fuchs, the CRT notes that each of the accounts were presumed closed by the auditors at some point after the War. However, given that Account Owner Maria Fuchs was murdered by the Nazis during the War and that each of her seven accounts was frozen pursuant to Swiss law in 1945, and most of them were not released for several years after the War, the CRT finds it plausible that Account Owner Maria Fuchs did not receive the proceeds of her accounts. After the War, account owners and their heirs would not have been able to obtain information about such accounts due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries because of the banks' concerns regarding double liability. Finally, there is no indication in the bank records that Account Owner Maria Fuchs or her heirs received the proceeds of the accounts. Thus, the

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

CRT concludes that in this case Presumptions (h) and (j) apply, and it is therefore plausible that the account proceeds were not paid to Account Owner Maria Fuchs or her heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owners were her father and paternal aunt, and those relationships justify an Award. Finally, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

Account Owner Otto Fuchs

For the account of Otto Fuchs, pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945, the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 25,680.00 Swiss Francs for this account.

Account Owner Maria Fuchs

Account I

The bank records indicate that the value of Account I as of 21 March 1946 was 26,000.00 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 50.00 Swiss Francs, which reflects standardized bank fees charged to the safe deposit box between 1945 and 21 March 1946. Consequently, the adjusted balance of this account is 26,050.00 Swiss Francs.

Account II

With respect to Account II, pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945, the average value of a safe deposit box was 1,240.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 14,880.00 Swiss Francs for this account.

Account III

The value of Account III as of 16 February 1945 was 15,973.00 Swiss Francs, in accordance with Article 37(1), this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 16 February 1945. Consequently, the adjusted balance of this account is 15,988.00 Swiss Francs.

Account IV

The value of Account IV as of 16 February 1945 was 10,193.00 Swiss Francs. In accordance with Article 37(1), this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 16 February 1945. Consequently, the adjusted balance of this account is 10,208.00 Swiss Francs.

Account V

The value Account V as of 16 February 1945 was 11,281.00 Swiss Francs. In accordance with Article 37(1), this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 16 February 1945. Consequently, the adjusted balance of this account is 11,296.00 Swiss Francs.

Account VI

The value of Account VI as of 16 February 1945 was 486,941.00 Swiss Francs. In accordance with Article 37(1), this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 16 February 1945. Consequently, the adjusted balance of this account is 486,956.00 Swiss Francs.

Account VII

The value of Account VII as of 20 June 1946 was 39,125.00 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 100.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 20 June 1946. Consequently, the adjusted balance of this account is 39,225.00 Swiss Francs.

With respect to Accounts I, III, IV, V, VI, and VII, there was no interest paid to the accounts. The total adjusted value of these accounts is 589,723.00 Swiss Francs. The present value of these accounts is determined by multiplying the adjusted balance of each of the accounts by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 7,076,676.00 Swiss Francs for these accounts. The total amount of the award in this case, including the account of Otto Fuchs and all seven accounts belonging to Maria Fuchs is therefore 7,117,236.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the Claimant may receive a second payment of up to 35% of

the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions to calculate the account values of the account of Otto Fuchs and Account II of Maria Fuchs, and 65% of those amounts is 26,364.00 Swiss Francs. Accordingly, the initial payment amount is 7,103,040.00 Swiss Francs.

Division of the Award

The Claimant is representing her niece, [REDACTED], in these proceedings. According to Article 29 (c) of the Rules, [REDACTED] is entitled to receive one-half of any payment made to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
October 24, 2002

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also* Independent Committee

of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; *see also* ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see* Bergier Final Report at 450 -51, and possibly Romania as well, *see* Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See* Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. *See In re Holocaust Victim Asset Litig.*, 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).